

SUPREME COURT OF ARKANSAS

No. 08-650

JARSEW, LLC

APPELLANT,

VS.

UNITED PARTS AND SUPPLIES and
FIDELITY NATIONAL BANK

APPELLEE,

Opinion Delivered June 26, 2008

MOTION FOR RULE ON CLERK

MOTION DENIED.

PER CURIAM

APPEAL & ERROR – MOTION FOR RULE ON CLERK DENIED.— Because the appellees were not given an opportunity to be heard on the motion for extension of time granted by the circuit court, the appellant was not in compliance with Rule 5(b) of the Arkansas Rules of Appellate Procedure Civil; the motion for rule on clerk was therefore denied.

Motion for Rule on Clerk; denied.

Appellant, Jarrew, LLC, filed a motion for rule on clerk seeking an order of this court that the Arkansas Supreme Court Clerk accept their record and transcript for filing. Appellant attempted to file the record and transcript on May 30, 2008, under an extension of time granted by the circuit court on April 23, 2008¹, pursuant to a motion for extension under Ark. R. App. P.–Civil 5(b). The clerk refused the filing based upon a failure to comply with Ark.

¹The time for filing the record with the Clerk of the Supreme Court had been extended by the circuit court until June 1, 2008.

R. App. P.–Civil 5(b)(1)(C).

To extend the time for filing the record and transcript with the clerk of the Supreme Court, Ark. R. App. P.–Civil 5(b)(1)(C) requires that “all parties have . . . the opportunity to be heard on the motion, either at a hearing or by responding in writing.” Appellant, in its reply to the Appellees’ response to this motion, tacitly admits its failure to give notice to the Appellees of its motion for extension of time. It is clear from the pleadings in this matter that the Appellees were not given an opportunity to be heard on the motion for extension which was granted by the circuit court on April 23, 2008, and, thus, Appellant was not in compliance with Rule 5(b). Therefore, Appellant’s motion for rule on clerk is denied.